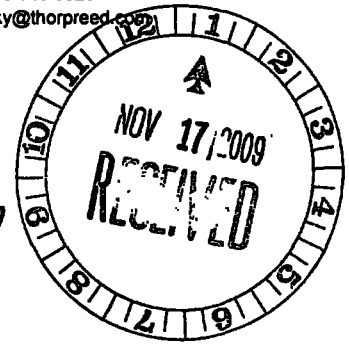




Eric M. Hocky
Direct Dial 215 640 8523
Email ehocky@thorpreed.com

FILED
NOV 17 2009
SURFACE
TRANSPORTATION BOARD

226007



ATTORNEYS AT LAW SINCE 1895

VIA FEDERAL EXPRESS

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

November 16, 2009

Re: East Tennessee Railway, L.P.
- Exempt Abandonment -
In Washington and Carter Counties, TN
STB Docket No. AB-1031 (Sub-No. X)

FEE RECEIVED
NOV 17 2009
SURFACE
TRANSPORTATION BOARD

Dear Ms. Brown:

Enclosed for filing please find the original and 10 copies of the Notice of Exempt Abandonment of East Tennessee Railway, L.P. Also enclosed is our check in the amount of \$3700 representing the filing fee for this Notice.

Please time stamp the extra copy of the Notice to indicate receipt and return it to me in the self-addressed stamped envelope provided for your convenience.

Please let know if there are any questions about the filing. Thank you for your assistance.

Respectfully,

Eric M. Hocky

Pittsburgh

Philadelphia

Princeton

Wheeling

EMH/e

Enclosures

cc: ETRY (by email; w/encl.)
All persons on service list (by mail; w/encl.)

ENTERED
Office of Proceedings

NOV 17 2009

Part of
Public Record

Thorp Reed & Armstrong, LLP
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103-7041
215 640 8500
215 640 8501 Fax

226007

ENTERED
Office of Proceedings

NOV 17 2009

Part of
Public Record



Before the

SURFACE TRANSPORTATION BOARD

STB Docket No. AB-1031 (Sub. No. X)

EAST TENNESSEE RAILWAY, L.P.

- EXEMPT ABANDONMENT -

IN WASHINGTON AND CARTER COUNTIES, TN

FILED
NOV 17 2009
SURFACE
TRANSPORTATION BOARD

NOTICE OF EXEMPT ABANDONMENT

FEE RECEIVED

NOV 17 2009

**SURFACE
TRANSPORTATION BOARD**

ERIC M. HOCKY
THORP REED & ARMSTRONG, LLP
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500

Attorneys for East Tennessee Railway, L.P.

Dated: November 16, 2009

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-1031 (Sub. No. X)

**EAST TENNESSEE RAILWAY, L.P.
- EXEMPT ABANDONMENT -
IN WASHINGTON AND CARTER COUNTIES, TN**



NOTICE OF EXEMPT ABANDONMENT

East Tennessee Railway, L.P. ("Applicant" or "ETRY") is seeking an exemption to abandon a segment of its line of railroad between Milepost 1.2 in the City of Johnson City, Tennessee, and the end of the line at Milepost 11.2 in the City of Elizabethton, Tennessee (the "Line"). ETRY acquired the Line in 1983; there has been no local or overhead freight service on the Line for over seven years.

This Notice of Exempt Abandonment is being filed pursuant to the requirements of 49 C.F.R. §1152.50. In accordance with such requirements, Applicant hereby states as follows:

1. The exact name of Applicant is East Tennessee Railway, L.P.
2. Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105. Applicant originally acquired the Line in 1983. *East Tennessee Railway Corp. – Exemption from 49 USC 10901 and 11301*, ICC Finance Docket No. 30204 (served July 14, 1983)(not published).
3. The relief sought is the abandonment of a line of railroad between Milepost 1.2 in the City of Johnson City, Washington County, Tennessee, and the end of the line at Milepost 11.2 in the City of Elizabethton, Carter County, Tennessee.
4. A detailed map of the Line is attached hereto as Exhibit A.

5. The representative of Applicant to whom correspondence should be sent is:

Eric M. Hocky, Esquire
THORP REED & ARMSTRONG, LLP
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500

6. The Line to be abandoned traverses United States Postal Service ZIP Code 13502.

7. Applicant believes that the right of way may be suitable for trail use or other public purposes. Information in Applicant's possession regarding any restrictions on title will be made available by Applicant on reasonable request.

8. Applicant proposes to consummate the abandonment on or after January 6, 2010.

9. Applicant certifies that:

(a) No local or overhead traffic has moved over the Line since 2002, over seven years. Because this is not a through line, there was no overhead traffic on the line.

(b) No formal complaint by a user of rail service on the Line, or a state or local government entity acting on behalf of such user, regarding cessation of service over the Line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the two year period.

10. Although no employees of Applicant will be affected by the proposed discontinuance, Applicant recognizes that this abandonment will be made subject to the employee protective conditions in *Oregon Short Line Railroad Co.--Abandonment--Goshen*, 360 I.C.C. 91 (1979).

11. Applicant filed an Environmental/Historic Report with the Board on October 23, 2009. Applicant is provided supplemental information regarding responses received since the

original Report was filed, in a letter being filed with the Board together with this Notice of Exemption.

12. Applicant has complied with the notice requirements of 49 C.F.R. §1105.11. On October 27, 2009, notice was published in the *Johnson City Press* and in *The Elizabethton Star*. Copies of the proofs of publication are attached as Exhibit B.

13. Applicant has complied with the notice requirements of 49 C.F.R. §1152.50(d)(1). Copies of the notices dated October 29, 2009, sent to governmental agencies are attached hereto as Exhibit C.

For the reasons set forth above, the Board should find that Applicant's proposed abandonment satisfies the exemption requirements of 49 C.F.R. §1152, and should issue the appropriate notice.

Respectfully submitted,



ERIC M. HOCKY
THORP REED & ARMSTRONG, LLP
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500

Attorneys for East Tennessee Railway, L.P.

Dated: November 16, 2009

VERIFICATION

I hereby verify on behalf of East Tennessee Railway, L.P., under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

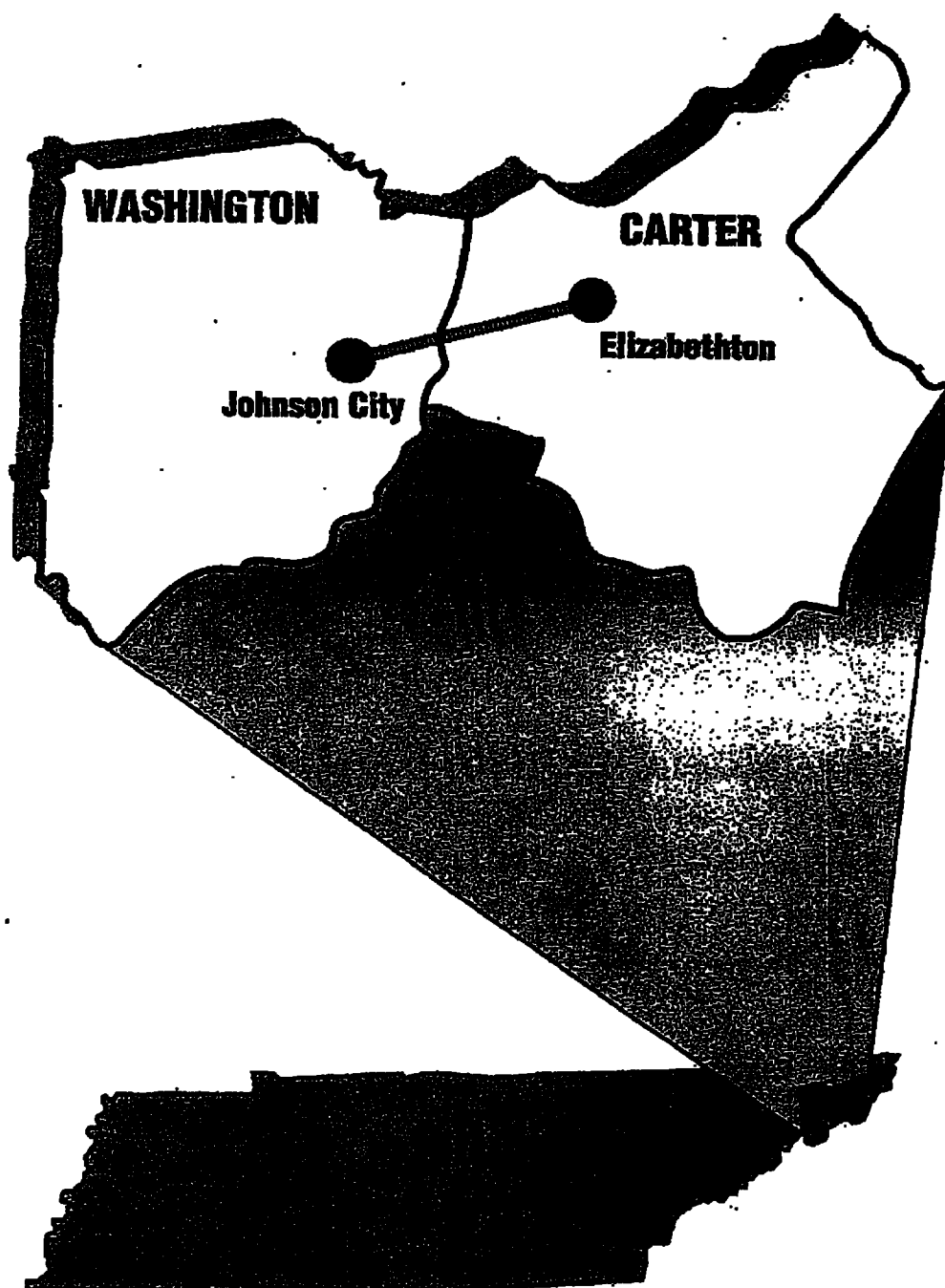
Executed on November 16, 2009.



William A. Jasper, President

EXHIBIT A - MAP

East Tennessee Railway, L.P.

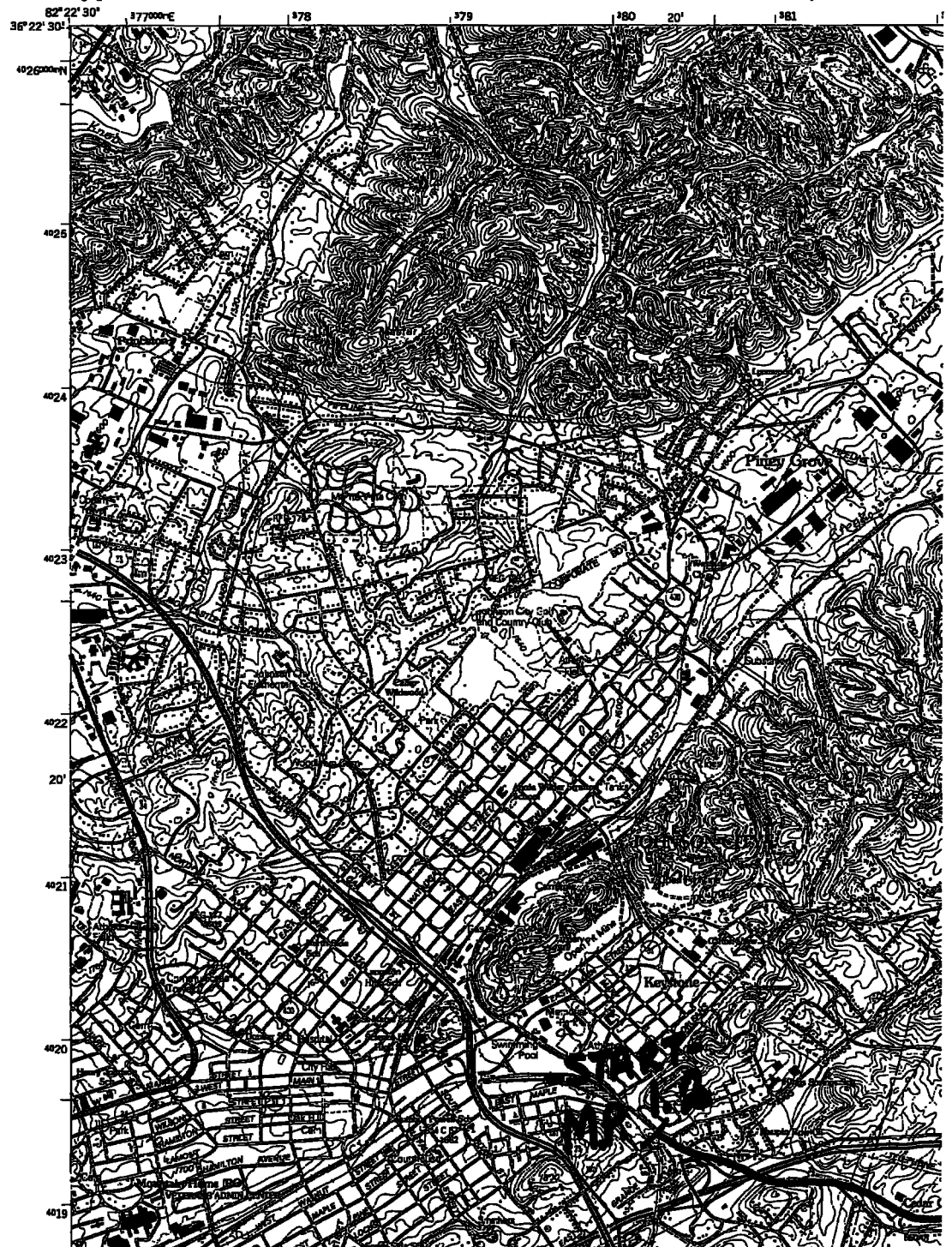




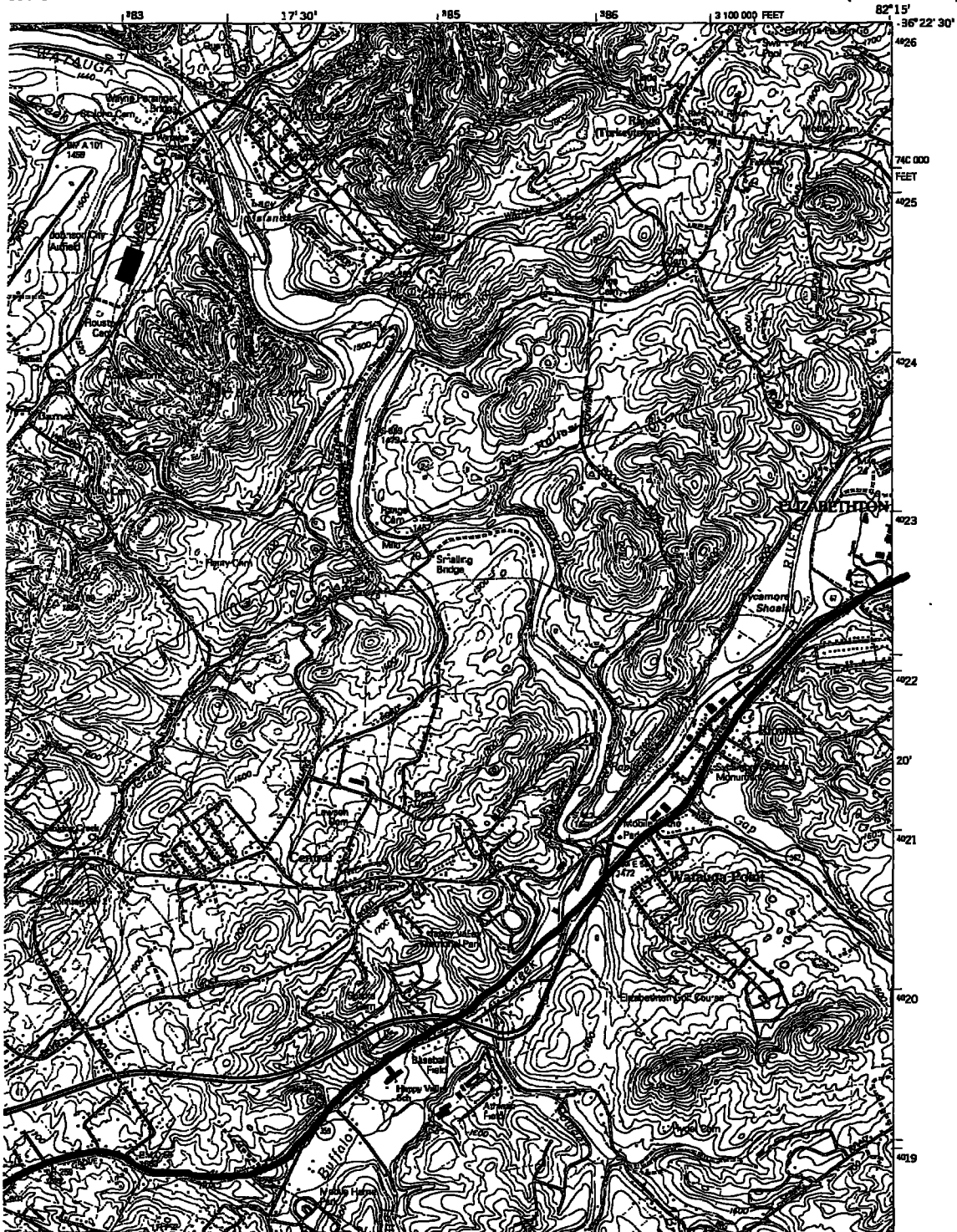
U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY



U.S. DEPA



JOHNSON CITY QUADRANGLE
TENNESSEE
7.5-MINUTE SERIES (TOPOGRAPHIC)



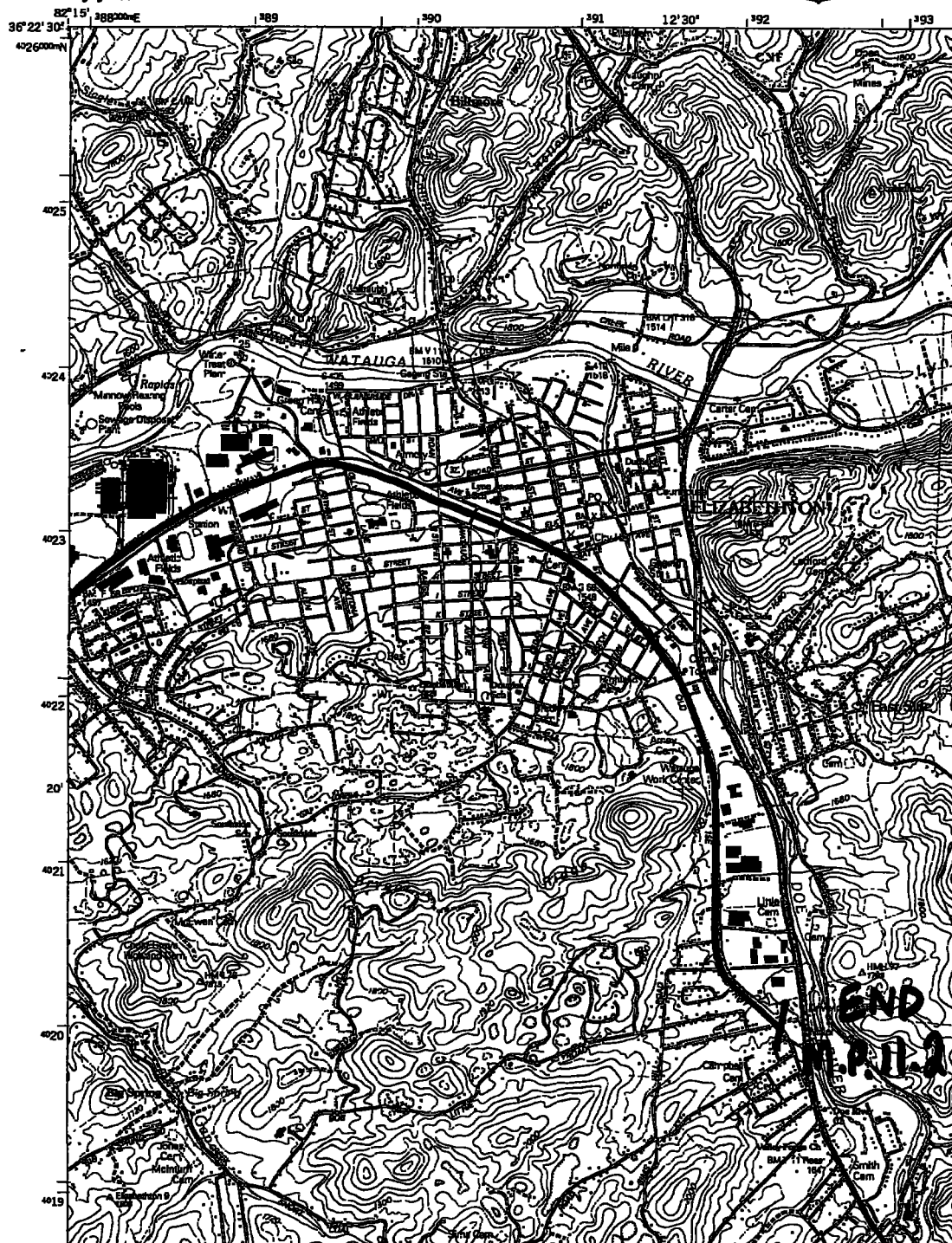


EXHIBIT B – NEWSPAPER NOTICES

STATE OF TENNESSEE COUNTY OF CARTER

Margaret Luttall OF SAID
COUNTY BEING DULY SWORN, DEPOSETH AND
SAITH THAT SHE IS THE ASSISTANT TREASURER
OF THE ELIZABETHTON STAR, A NEWSPAPER
PUBLISHED AT ELIZABETHTON IN THE COUNTY
OF CARTER, STATE OF TENNESSEE, AND THE
ORDER AND NOTICE, OF WHICH IS ANNEXED IS
A TRUE COPY, WHICH WAS PUBLISHED IN SAID
PAPER FOR One CONSECUTIVE WEEKS,
One Insertion

COMMENCING ON THE 27th DAY OF Oct., 20 09
AND ENDING ON THE 27th DAY OF Oct., 20 09

Margaret Luttall
Sworn to and subscribed before me this
the 27th day of Oct., 20 09

Nathan C. Davis
NOTARY PUBLIC

My commission expires November 27, 2010



NOTICE OF INTENT TO ABANDON RAIL SERVICE

East Tennessee Railway L.P. ("ETRY") gives notice that on or about November 12, 2009, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption pursuant to the provisions of 49 CFR 1152 Subpart F under STB Docket No. AB-1031 (Sub-No. X) permitting the abandonment of a segment of its line of railroad which runs in an easterly direction from Milepost 1.2 in the City of Johnson City in Washington County, Tennessee through Milepost 11.2 in the City of Elizabethton, Carter County, Tennessee ("Subject Line"). This Subject Line traverses through United States Postal Zip Codes 37605 and 37643.

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA) which will normally be available 25 days after the filing of ETRY files a notice of exemption or 60 days after the filing if ETRY files a petition for exemption. Comments on environmental and energy matters should be filed no later than 15 days (in the case of a notice) or 30 days (in the case of a petition) after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the SEA, Section of Environmental Analysis (SEA), Surface Transportation Board, 395 E. Street, S.W., Washington, DC 20423-0001, or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, Surface Transportation Board, 395 E. Street, S.W., Washington, DC 20423-0001. (See 49 CFR 1104.1(a) and 1104.3(a)), and one copy must be served on applicant's representative. (See 49 CFR 1104.12(a)). Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative, Eric M. Hocky, Esquire, Thorp Reed & Armstrong, LLP, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

10/27

JOHNSON CITY PRESS

204 W. Main St., Johnson City, TN 37604

AFFIDAVIT OF PUBLICATION

AD #: 838132

DATES: 10/27/2009

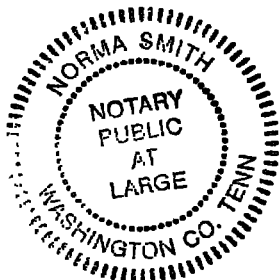
STATE OF TENNESSEE)
) SS.
WASHINGTON COUNTY)

Stephanie White makes oath that he is the Advertising Sales Manager
of the JOHNSON CITY PRESS, a daily newspaper published in Johnson City, in said County and State,
and that the advertisement was published in said newspaper for one (1) insertion(s) commencing
on 10-27-09 and ending on 10-27-09.

Stephanie White
Signature

Sworn to and Subscribed before me this Oct. 27 2009
Month Day Year

In testimony whereof I have hereunto set my hand and seal the day and year aforesaid.



Norma Smith
Notary Public
My commission expires 11 30 2011
Month Day Year

DATE: 10/27/

NOTICE OF INTENT TO ABANDON RAIL SERVICE

East Tennessee Railway, L.P. ("ETRY"), gives notice that on or about November 12, 2009, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption pursuant to the provisions of 49 CFR 1152. Subpart F under STB Docket No. AB-1031 (Sub-No. X) permitting the abandonment of a segment of its line of railroad which runs in an easterly direction from Milepost 1.2 in the City of Johnson City, in Washington County, Tennessee through Milepost 11.2 in the City of Elizabethton, Carter County, Tennessee ("Subject Line"). This Subject Line traverses through United States Postal Zip Codes 37605 and 37643.

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EXHIBIT C – 10 DAY NOTICES



Carol D. Lydon
Paralegal
Direct Dial 215 640 8500
Email clydon@thorpreed.com

ATTORNEYS AT LAW SINCE 1895

VIA FIRST CLASS MAIL

United States Department of the Army
Military Surface Deployment and Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

October 29, 2009

Re: East Tennessee Railway, L.P. – Abandonment – Washington and Carter
Counties, TN
STB Docket No. AB-1031(X)

Dear Sir/Madam:

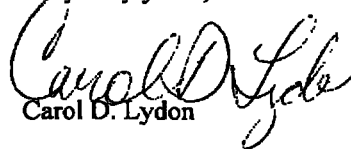
This letter is to advise you that East Tennessee Railway, L.P. ("ETRY") will be filing a verified notice of exempt abandonment pursuant to the provisions of 49 C.F.R. §1152.50. The notice will be filed with the Surface Transportation Board on or about November 12, 2009. ETRY will be seeking an exemption to abandon a segment of its line of railroad which runs in an easterly direction from Milepost 1.2 in the City of Johnson City in Washington County, Tennessee to Milepost 11.2 in the City of Elizabethton, Carter County, Tennessee. This line traverses through United States Postal Zip Codes 37605 and 37643.

Based on information in ETRY's possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

At this time, ETRY plans to salvage the track and track materials. It has not determined whether to re-use them on its remaining lines or on the lines of its affiliates, or to sell them to a third party.

ETRY filed an Environmental/Historic Report with the Surface Transportation Board on October 22, 2009, and will provide a copy upon request.

Very truly yours,


Carol D. Lydon

Pittsburgh

Philadelphia

Princeton

Wheeling

Thorp Reed & Armstrong, LLP
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103 7041
215 640 8500
215 640 8501 Fax

CC: ETRY
Eric M. Hocky, Esquire

CDL0006 DOC



Carol D. Lydon
Paralegal
Direct Dial 215 640 8500
Email: clydon@thorpreed.com

ATTORNEYS AT LAW SINCE 1895

VIA FIRST CLASS MAIL

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-003

October 29, 2009

Re: East Tennessee Railway, L.P. – Abandonment – Washington and Carter
Counties, TN
STB Docket No. AB-1031(X)

Dear Sir/Madam:

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Pittsburgh

Philadelphia

Princeton

Wheeling

Very truly yours,

Carol D. Lydon

Thorp Reed & Armstrong, LLP
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103-7041
215 640 8500
215 640 8501 Fax

CC: ETRY
Eric M. Hocky, Esquire

CDL0005.DOC



Carol D. Lydon
Paralegal
Direct Dial 215 640 8500
Email: clydon@thorpreed.com

ATTORNEYS AT LAW SINCE 1895

VIA FIRST CLASS MAIL

U.S. Department of the Interior -
National Park Service
RTCA Program (Org code 2240)
1849 C Street, NW
Washington, DC 20240

October 29, 2009

Re: East Tennessee Railway, L.P. – Abandonment – Washington and Carter
Counties, TN
STB Docket No. AB-1031(X)

Dear Sir/Madam:

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Very truly yours,

Carol D. Lydon

CC: ETRY
Eric M. Hocky, Esquire

Pittsburgh

Philadelphia

Princeton

Wheeling

Thorp Reed & Armstrong, LLP
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103-7041
215 640 8500
215 640 8501 Fax

CDL0004 DOC



Carol D. Lydon
Paralegal
Direct Dial 215 640 8500
Email: clydon@thorpreed.com

ATTORNEYS AT LAW SINCE 1895

VIA FIRST CLASS MAIL

Tennessee Department of Transportation
505 Deaderick Street
Suite 700
Nashville, TN 37243

October 29, 2009

Re: East Tennessee Railway, L.P. – Abandonment – Washington and Carter
Counties, TN
STB Docket No. AB-1031(X)

Dear Sir/Madam:

This letter is to advise you that East Tennessee Railway, L.P. ("ETRY") will be filing a verified notice of exempt abandonment pursuant to the provisions of 49 C.F.R. §1152.50. The notice will be filed with the Surface Transportation Board on or about November 12, 2009. ETRY will be seeking an exemption to abandon a segment of its line of railroad which runs in an easterly direction from Milepost 1.2 in the City of Johnson City in Washington County, Tennessee to Milepost 11.2 in the City of Elizabethton, Carter County, Tennessee. This line traverses through United States Postal Zip Codes 37605 and 37643.

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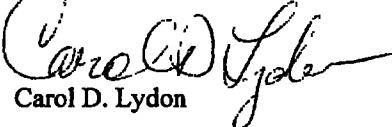
Pittsburgh

Philadelphia

Princeton

Winning

Very truly yours,


Carol D. Lydon

Thorpe Reed & Armstrong, LLP
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103-7041
215 640 8500
215 640 8501 Fax

CC: ETRY
Eric M. Hocky, Esquire

CDL0003.DOC



Carol D. Lydon
Paralegal
Direct Dial 215 640 8500
Email: clydon@thorpreed.com

ATTORNEYS AT LAW SINCE 1895

VIA FIRST CLASS MAIL

Mary W. Freeman, Director
Tennessee Regulatory Authority
460 James Robertson Parkway |
Nashville, TN 37243

October 29, 2009

Re: East Tennessee Railway, L.P. – Abandonment – Washington and Carter
Counties, TN
STB Docket No. AB-1031(X)

Dear Ms. Freeman:

This letter is to advise you that East Tennessee Railway, L.P. ("ETRY") will be filing a verified notice of exempt abandonment pursuant to the provisions of 49 C.F.R. §1152.50. The notice will be filed with the Surface Transportation Board on or about November 12, 2009. ETRY will be seeking an exemption to abandon a segment of its line of railroad which runs in an easterly direction from Milepost 1.2 in the City of Johnson City in Washington County, Tennessee to Milepost 11.2 in the City of Elizabethton, Carter County, Tennessee. This line traverses through United States Postal Zip Codes 37605 and 37643.

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Pittsburgh

Philadelphia

Princeton

Wheeling

Very truly yours,

Carol D. Lydon

Thorp Reed & Armstrong, LLP
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103-7041
215 640 8500
215 640 8501 Fax

CC: ETRY
Eric M. Hocky, Esquire

CDL0002 DOC

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Notice of Exempt Abandonment was served on the following persons shown on the attached list by first class mail, postage prepaid.



ERIC M. HOCKY

Dated: November 16, 2009

State of Tennessee
Office of Freight & Rail
Suite 1800 James K. Polk Bldg.
Nashville, TN 37243

Tennessee Dept. of Environmental
Conservation
L & C Annex, 1st Floor
401 Church Street
Nashville, TN 37243

Tennessee Dept. of Environmental
Conservation
Johnson City Field Office
2305 Silverdale Road
Johnson City, TN 37601-2162

Tennessee Dept. of Environmental Conservation
Ground Water Protection
Alan Schwendimann, Director
10th Floor, L & C Tower
401 Church Street
Nashville, TN 37243

George Jaynes, County Mayor
Washington County
Courthouse in Jonesborough
P.O. Box 219
Jonesborough, TN 37659

Johnny Holder, County Mayor
Carter County
801 East Elk Avenue, Suite 201
Elizabethton, TN 37643

U.S. Fish & Wildlife Service
Resident Agency in Charge Office
222 Great Circle Road
Suite 150
Nashville, TN 37228-1738

U.S. Army Corps of Engineers
Civil Works Office
U.S. Army Engineer District – Nashville
P.O. Box 1070
110 Ninth Ave. S
Nashville, TN 37202-1070

National Park Service, Southeast Region
David Vela, Regional Director
National Park Service
100 Alabama Street, SW
1924 Building
Atlanta, GA 30303

Tennessee Natural Resources Conservation
Service
Kevin Brown, State Conservationist
675 U.S. Courthouse
801 Broadway
Nashville, TN 37203

Natural Resources Conservation Service
Dave Merinar, District Conservationist
Elizabethton Service Center
419 Elk Ave.
Elizabethton, TN 37643-2596

Natural Resources Conservation Service
Gary O villen, District Conservationist
Jonesborough Service Center
1105 E. Jackson Street
Jonesborough, TN 37659-4775

U.S. Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960

Robert L Wilson, Jr., Asst. City Manager
City of Johnson City
601 East Main Street
P.O. Box 2150
Johnson City, TN 37605

Mr. Richard A. Snay
Chief, Spatial Reference System Division
United States Department of Commerce
NOAA, N/NGS2
SSMC3, Room 8828
1315 East-West Highway
Silver Spring, MD 20910

U.S. Department of the Interior – National
Park Service
RTCA Program (Org Code 2240)
1849 C Street, NW
Washington, DC 20240

E. Patrick McIntyre, Jr., Executive Director
Tennessee Historical Commission
2941 Lebanon Road
Nashville, TN 37243-0442

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-003

United States Department of the Army
Military Surface Deployment and Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National
Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

Tennessee Department of Transportation
505 Deaderick Street
Suite 700
Nashville, TN 37243